MCA Charges Scorpio With Counterfeiting

Philadelphia Wholesaler Sued For $10 Million

BY JOHN SIPPEL

LOS ANGELES MCA Records has charged that Scorpio Music Inc., a Philadelphia-area wholesaler, has engaged in the manufacture and marketing of counterfeit MCA product.

The action, filed in a U.S. district court here last Tuesday (18), alleges that sometime before January 1984, Scorpio and another defendant, John T. Gervasoni, a Scorpio vice president who is understood to have acquired control of Scorpio within the past year, marketed unauthorized recorded performances by such artists as the Who, Jimmy Buffett, Tom Petty & the Heartbreakers, and Lynyrd Skynyrd in the U.S. and overseas.

The filing states that the quality of the alleged bogus recordings is good enough to be mistaken by the consumer for authorized product.

The MCA suit, which seeks $10 million in punitive and exemplary damages, contends that Scorpio may have pacted in 1984 with a firm, referred to in the filing as Betaco Enterprises, to purchase MCA records and tapes that Betaco was trying to acquire from Salvatore James Pisello. The MCA brief also alleges that Scorpio may have paid Betaco "a substantial sum of money" for recorded product it never received.

The suit denies that Pisello or Ranji Bedi, described as a principal in Betaco, had authority to act on behalf of MCA. Pisello's name was raised in a recent NBC News inquiry into payola and counterfeiting.

MCA also disputes Scorpio's contentions that it had agreed to a "binding and enforceable contract with MCA" for one million cutouts at 70 cents per album, and that in 1984 or 1985 MCA said it would deliver to Scorpio one million cutouts, after which Scorpio paid a $350,000 advance.

In the suit, which asks for a jury trial, MCA also disputes the Scorpio contention that Pisello, Betaco, Bedi, and certain MCA executves engaged in activities in violation of the federal Racketeer Influenced & Corrupt Organizations Act.

Dennis Eisman, attorney for Scorpio, says that MCA's charges are completely false and were made in an effort to get jurisdiction in friendly courts in California. He claims a Scorpio suit is pending.

Grammy Bash. Top brass from Capitol Records pose with two of the label's rising stars, 1985 Grammy nominee Freddie Jackson, left, and Meli'sa Morgan, third from right, during a post-Grammy celebration at the Palace in Hollywood, Calif. Pictured with the artists are, from left, Mrs. and Mr. Don Zimmermann, label president; Don Grierson, vice president of a&r; and Bhaskar Menon, chairman, president, and chief executive officer of Capitol Industries-EMI Inc.

Sliding Payment Scale

RCA/Ariola Sets Vidclip Fee Plan

BY TONY SEIDEMAN

NEW YORK RCA/Ariola has become the fourth major record label to establish a videoclip fee plan.

An RCA spokesman says the program has a sliding scale plan calling for payments that are determined by the audience size, locality, ratings, and the scope of the shows involved.

The labels that have already issued clip fee plans are CBS, Warner Bros., and PolyGram. The RCA fees will reportedly fall somewhere between those chosen by Warner Bros. and PolyGram. The RCA spokesman says that, like those labels' plans, the RCA fee program is being instituted with an eye to recouping duplication, mailing, and other mechanical videoclip production expenses.

Music Video programmers' response was unenthusiastic. "It's not going to help, I'll tell you that," says Thomas Zingale, general manager of the Gainesville, Fla.-based TV-69. "It's rough enough as it is with ratings going down for videos.

"Who it's hurting is the little guy," Zingale says. "It's getting to the point now where more than 50% of the product is affected by [videoclip fees]."

While fees probably won't force him off the air, Zingale says, they may well call for TV-69 to change programing formats. "We can put on 'The Jetsons' or movies or something," he says.

According to RCA, at least six months will elapse before the fees kick in, and it will probably be four to six weeks before all the stations served by the label receive official notice of the payment system.

Key Clips Hit Big Screen

Stones To 100-Plus Theaters

BY TONY SEIDEMAN

NEW YORK Videoclip use in movie theaters has made new strides in acceptance as a marketing tool for music product and feature films.

This is evident from Columbia Pictures' release of a clip for its new film "A Fine Mess" as a short subject, and CBS Records' theatrical release of a videoclip for the Rolling Stones' "Harlem Shuffle."

"We're going into over 100 theaters with the Stones' clip, and we're going to be displaying posters in the theaters. It's part of the overall marketing plan," says Arma Andon, vice president of product development for Columbia Records.

The Stones' clip premiered as a theatrical piece last Friday (21).

"Any increased exposure of the video or the music is beneficial," says Andon. "The expenditure is minimal; because of the nature of the Stones, [the clip] provides the theaters with an additional promotional punch."

As for the videoclip for "A Fine Mess," Tom Andrews, head of Columbia Pictures' music video department, says, "This marks the first time a movie company has placed a videoclip in theaters as a short."

The clip is of the title tune of "A Fine Mess" and features the Temptations, plus the film's stars, Ted Danson and Howie Mandell, in a parody of previous videoclips from films.

"Columbia is confident of the success of the clip; it's made up 400 prints of 'A Fine Mess' to be shipped out," says Andrews.

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TO OUR READERS

Several changes in this week's Billboard are designed to better serve the needs of our readers. Because the heart of the entertainment industry is talent, we have moved the various artist-related columns and sections—Talent, Black and Country—toward the front of Billboard. The retail and video sections remain grouped together at the middle of the magazine, while the International pages are now massed together near Hits of the World.

CHART BEAT

by Paul Grein

IT'S BEEN a season of surprises on Billboard's Top Pop Albums chart. Of the seven albums to climb to No. 1 in the past six months, only one—**Sade's** "Promise"—was by an act whose previous release had cracked the top 10. All the others—including **Dire Straits'** "Brothers In Arms," **"Heart," Barbra Streisand's** "The Broadway Album," and **Mr. Mister's** "Welcome To The Real World"—were by acts whose previous albums fell short of the top 10—in some cases, way short.

We thought it would be fun to look at all the albums that have hit No. 1 in the last three years and consider whether their No. 1 success was expected or not.

Naturally, there are degrees of surprise. The No. 1 success of **Prince's** followup to "Purple Rain" was a foregone conclusion; the No. 1 ranking of **Mr. Mister's** followup to a debut album that had peaked at No. 170 was a total shock.

You've got the concept, let's move on to the list. (Note that we're confining our discussion to individual acts' albums and excluding soundtracks, as well as the "We Are The World" album.)

• **Michael Jackson's** "Thriller." No one expected this to spend 37 weeks at No. 1 and become the best-selling album of all time, but the fact that it *hit* No. 1 was hardly a surprise. Jackson's previous album, "Off The Wall," hit to No. 3.

• **The Police's** "Synchronicity." A similar story here. The album wasn't expected to log 17 weeks at No. 1, but the group was clearly headed for the top. Its previous album, "Ghost In The Machine," had logged six weeks at No. 2.

• **Quiet Riot's** "Metal Health." A bona fide surprise. This was the first debut album by a heavy metal band to hit No. 1.

• **Lionel Richie's** "Can't Slow Down." No surprise here. Richie's previous album, "Lionel Richie," had logged seven weeks at No. 3.

• **Huey Lewis & the News'** "Sports." Lewis was obviously headed for the big time, but this still marked a big leap to No. 1. Lewis' previous album, "Picture This," had peaked at No. 13.

Surprises at the top of the Top Pop Albums

• **Bruce Springsteen's** "Born In The U.S.A." This album generated as many top 10 singles as "Thriller," and logged six *more* weeks in the top 10 of the Top Pop Albums chart. The magnitude of that success was surprising, but the fact that it hit No. 1 was not. Springsteen's previous album, the acoustic, uncommercial "Nebraska," had climbed to No. 3.

• **Prince & the Revolution's** "Purple Rain." Same story here: No one expected this album to log 24 weeks at No. 1 and garner an Oscar and two Grammys, but Prince was clearly moving toward the top. His previous album, the double-record "1999," hit No. 9.

• **Madonna's** "Like A Virgin." No real surprise: Madonna's previous album had climbed to No. 8 just a few months before. But whereas "Madonna" had taken 58 weeks to crack the top 10, "Virgin" made it in only two weeks.

• **Wham!'s** "Make It Big." This was the *big* surprise. The group's previous album, "Fantastic," had peaked at No. 83.

• **John Fogerty's** "Centerfield." Another big surprise: Fogerty's previous album—nearly *10 years* earlier—had peaked at No. 78.

• **Phil Collins'** "No Jacket Required." A *small* surprise. Collins' two previous solo albums had both cracked the top 10, but this one went all the way to No. 1, where it stayed for seven weeks. In the wake of its recent Grammy wins, it may even climb back to the top 10: This week it jumps to No. 21.

• **Prince & the Revolution's** "Around The World In A Day." No surprise at all. This is the only No. 1 album of the past three years that is the followup to a No. 1.

• **Tears For Fears'** "Songs From The Big Chair." A big surprise. The duo's previous album, "The Hurting," had peaked at No. 73.

• **Bryan Adams' "Reckless."** Like Madonna and Collins, Adams was clearly headed for the top: His previous album, "Cuts Like A Knife," had reached No. 8.

• **Dire Straits' "Brothers In Arms."** This album marked a major comeback: Dire Straits' two previous releases had missed the top 40, and its last studio album, 1982's "Love Over Gold," had peaked at No. 19.

• **Heart's "Heart."** Another big comeback album. Heart's previous release, "Passionworks," had peaked at No. 39.

• **Barbra Streisand's "The Broadway Album."** Streisand has amassed so many No. 1 albums in her career that it's never a complete surprise when she reaches the top. Still, her previous album, "Emotion," was her lowest-charting studio album in 15 years, peaking at No. 19.

• **Sade's "Promise."** Sade's previous release, "Diamond Life," had hit the top five, so the No. 1 success of this followup was not unexpected.

• **Mr. Mister's "Welcome To The Real World."** It's a toss-up as to which is more astonishing: James Brown's No. 4 pop hit in 1986 or this followup to a No. 170 album going all the way to No. 1.

• **Whitney Houston's "Whitney Houston."** Even Clive Davis couldn't have expected this album to do as well as it has. It's the first album by a female vocalist to log four weeks at No. 1 since Kim Carnes' "Mistaken Identity" five years ago. And that album yielded just one No. 1 hit. Houston has already had two.

1986.03.29 Key Clips Hit Big Screen, Tony Seideman, Billboard, 96,13,pg. 6, 81

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CD SALES PACE

(Continued from page 3)

Another West Coast chain, 41-store Music Plus, is in the process of moving its disk prices from $13.99 and $14.99 to $1 more. Director of purchasing Mitch Perliss says it's too early to predict what impact the increase will bring, but cautions, "Anytime you raise the price on a customer, you figure that it may not effect one-unit sales—but it may effect multiple purchases."

The loudest complaint comes from the 150-store Record Bar chain. Ralph King, senior vice president of marketing, expresses a sense of betrayal as the company confronts higher prices for catalog CDs, which they were told by manufacturers to view as a mainstay of CD business.

Once touted by CD adherents as a "nice and clean catalog business," the format is already suffering at The Record Bar, according to King. In fact, he notes, CD sales as a percentage of prerecorded revenue is slightly down from last fall, when the first round of CD price increases were instituted.

Says King, "It's becoming a hit-driven business, which is OK, I guess—but that's not what we were made to understand about CDs."

King says there is already consumer resistance on catalog, namely classical product. "We used to have individual consumers buying four or five CDs at $12.99 each, but now we're lucky if it's three or four. On catalog, we've been forced to charge 50 cents above list, or for those labels without a list price, 50 cents above the nearest comparable price based on cost structure."

With initial price increases in February, Jay Sonin, owner of Record Hunter, a heavily trafficked unit in midtown New York, raised his advertised specials on pop CDs 50 cents to $12.48. That's it for now, he says, until he determines where things level off. "The reason I'm getting from labels about the new increases is the dollar exchange value. I can't dispute that. On the other hand, the price of oil is substantially lower, but I'm not aware of lower LP prices."

Despite consumer perceptions that CDs would retail at $10.99 or $11.99 by the first of the year, John Unger Jr., general manager of 4-store Laury's in Chicago, feels CD growth won't be impeded by the latest round of price increases. His chief worry is the ability of manufacturers to deal with maintaining a sufficient supply of hit pop product.

"In the long run, this could hurt the CD business more than price hikes. People are so happy with their CD machines, they're happy to get what they can."

Unger says his sales people are being educated to discuss price rises to concerned consumers. They explain rates of exchange and problems of short supply.

Laury's, Unger reports, dropped its mail-order CD service in December, an action reflecting lack of inventory depth on individual titles and the high cost of producing a CD catalog.

Wrangler Sets New Talent Contest

NASHVILLE Wrangler's new corporate endorsement deal with Willie Nelson has led to the creation of a new national talent search.

The event, to be known as the Willie Nelson/Wrangler Music Invitational, will replace the Wrangler Country Showdown, which is being discontinued.

Competitors must be invited to participate in the contest. They will be chosen by committees consisting of five local members in each market, one each from the sponsoring radio station, record/retail store, newspaper music department, university booking division, and club.

A total of 21 acts—seven each from the fields of rock, r&b, and country—will be invited to compete in 10 individual markets: Los Angeles, New York, Nashville, Chicago, Detroit, Houston, Seattle, Atlanta, Denver, and New Orleans. Judges from various facets of the entertainment industry will be named for every event.

After preliminary competitions throughout the spring and summer, 30 acts (10 in each of the three musical formats) will compete in the finals. This show is expected to be taped as a TV special. No site for the finals has been announced.

Grand prize winners of the Willie Nelson/Wrangler Music Invitational will receive cash, musical equipment, Wrangler apparel, personal appearance contracts, a video, and a slot on the TV show.

Nashville-based Susan Hackney Associates will produce and promote the nationwide competition.

'85 SHIPMENTS FLAT

(Continued from page 1)

32% in 1984, 31% in 1983.

While prerecorded cassettes remained by far the dominant configuration in 1985 in both units shipped and value, early reaction to the abrupt flattening of its growth curve had some industry figures speculating that the format is approaching market maturity. A marketing specialist at CBS Records who holds this view notes a corresponding falloff in the sales of cassette players.

From another perspective, other industry observers blame the continued growth of home taping for the leveling off of prerecorded cassette shipments.

The decline in net shipments of LPs (including EPs) gathered momentum last year, plunging 18% in units to 167 million, from 204.6 million in 1984. The value of these shipments was calculated by the RIAA at $1.281 billion in 1985, a precipitous 17% decline from $1.549 billion in 1984.

As expected, CDs continued their aggressive attack on the market last year, with shipments calculated at 22.6 million units, up a towering 291% over the 5.8 million shipped in 1984. CDs shipped were valued at $389.5 million in 1985, 277% over the 1984 figure of $103.3 million.

Other statistics included in the RIAA report show 1985 unit shipments of singles down 8% for the year, to 120.7 million from 131.5 million. Their value slipped 6% from $298.7 million in 1984 to $281 million last year.

The failing grip of eight-tracks on the market relaxed further, with shipments reported at 3.5 million units for the year, down 40% from 1984's 5.9 million. The value of eight-tracks shipped was declared at $25.3 million in 1985, down 29% from $35.7 million in 1984.

BLANKET TV LICENSING BATTLE HEATS UP

(Continued from page 4)

TV stations for the music performance rights. It has been estimated that the annual fees paid to the groups total nearly $80 million.

Proponents of the bill argue that the loss in revenue would come out of the so-called studio publishing "kickback," and that residual payments, in the words of the All-Industry Committee's Bostick, will "continue to flow to the composer/lyricist as they do now to actors, directors, script writers, and others."

Opponents scoff at that view. BMI president Ed Cramer testified that passage "would reduce the economic incentive to creators by tens of millions of dollars annually" and warned that "the next step would be to extend the legislation to encompass network television, cable, public television, and then syndicated radio programs." Cramer also pointed to the "astronomical" growth of broadcasting stations in the last few years, and said that the industry can well afford the present rates.

ASCAP president Hal David called the pending bills "outrageous," and proponents "a group of local TV broadcasters seeking not a fair bargain but a free ride." He also told the House members that if the bill is passed, "An unknown composer would no longer be assured of receiving continuing payment for the continuing performance of a surprise hit, and he would no longer be assured or receiving more from that hit than a famous composer would receive from a flop."

The issue of the blanket license for syndicated TV shows on local stations surfaced in Congress after broadcasters lost their case in the courts. The All-Industry Committee filed a class action suit in U.S. District Court in New York in 1978, charging that ASCAP and BMI licenses violated antitrust laws. The court agreed, but the case was appealed and overturned.

The Supreme Court, in February 1985, let the 1984 appeals court ruling stand. Now the broadcasters say they are asking for Congress for help on copyright fairness grounds.

Ironically, ASCAP's David, BMI's Cramer, and SESAC president W. Robert Thompson are telling Congress that passage of the measures would undermine the principles of copyright, exempting the broadcasters from paying the creators of music for continued performance—by "shifting the responsibility of that payment for performance to the producers of audio/visual works," as Thompson put it.

"The bill would benefit at most some 800 TV station owners at the expense of thousands of authors and copyright proprietors, Thompson added. "It is a small special interest group seeking government-sanctioned economic benefit at the expense of a far larger group."

MD. SENATE PORNO BILL

(Continued from page 3)

to testify at the request of Bruce Bereano, who was hired by the Recording Industry Assn. of America (RIAA) last month to work on the defeat of the Toth proposal (Billboard, March 22).

RIAA officials, however, have expressed surprise and puzzlement at the invitation extended to Zappa, who told federal legislators last fall that the recording industry had used the issue of porn rock to draw attention away from the industry's pending home taping royalty bills, which he opposes.

Bereano, who had hosted a reception the night before so that the lawmakers could meet Zappa, kept his opposition arguments cursory, then turned the microphone over to the artist.

Zappa was much more relaxed and less vituperative than he was in his appearance on Capitol Hill. He told the committee members that "lyrics do not harm you" and that "no sound that comes out of your mouth will send you to hell."

In sometimes rambling testimony, he spent several minutes sardonically explaining the importance of the nipple in appreciating the breast. He read the descriptive language of the state's obscenity law, then asked the lawmakers, "You guys read this?"

The man who brought tales of poodle bites, yellow snow, and dirty love as well as sophisticated orchestral composition to a generation of rock listeners testified that there's no need for the bill. "To say that rock music is a major cause of anti-social behavior is not supported by science," he said. "Take a look at normal kids who listen to it every day. They don't commit suicide. They don't commit murder. They grow up—in some cases, they grow up to be legislators."

PROMO CLIPS HIT CINEMAS

(Continued from page 6)

Motown will release a single of "A Fine Mess" by the Temptations on April 1, with a soundtrack album release scheduled for mid-April. Andrews hopes to have the clip in the theaters to coincide with the album's release.

"There will be a lot of cross-promotions with Motown Records on this project," says Andrews. He says that he has had a positive response on the project from both the theatrical and musical communities.

Columbia is handling the distribution of "A Fine Mess" itself. "We have our own relationship with distributors," says Andrews.

Distribution of "Harlem Shuffle" to movie theaters is being handled by Music Motions, a New York-based company that specializes in getting clips into movie houses.

"So far this has been one of the most well-received clips due to the stature of the band and the creativeness of the piece," says Pam Henning, Music Motions' vice president of advertising and promotion. CBS and Music Motions are working on a number of cross-promotions, which will use watches and singles as on-air giveaways.

Putting clips into theaters is not something that will work for every artist, says CBS' Andon. "Obviously, where this is going to work best is with those artists with a well-known name. You're not going to establish unknown artists through this means of advertising."

CBS has used Music Motions to put clips into theaters for three other artists: Barbra Streisand, Ricky Skaggs, and Sade.

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